

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45133; File No. SR-OPRA-2001-04]

### Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan to Make Technical Corrections to Section V(c)

December 5, 2001.

Pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 24, 2001, the Options Price Reporting Authority ("OPRA"),<sup>2</sup> submitted to the Securities and Exchange Commission ("Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan"). The proposed amendment would make technical corrections to section V(c) of the OPRA Plan. OPRA has stated that the proposed OPRA Plan amendment involves solely technical or ministerial matters and is, therefore, effective upon filing, pursuant to Rule 11Aa3-2(c)(3)(iii) under the Act.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed OPRA Plan amendment from interested persons.

#### I. Description and Purpose of the Amendment

The proposed OPRA plan amendment would make technical corrections to Section V(c) of the OPRA Plan, as that

section was recently amended.<sup>4</sup> These proposed corrections consist of the deletion of an inappropriate reference in paragraph (ii) of section V(c) and the redesignation of subparagraphs (i)-(iv) of paragraph (iv) of section V(c) as subparagraphs (A)-(D) in order to conform their designation to the style of the OPRA Plan. OPRA represents that the proposed OPRA Plan amendment would make no substantive change to the provisions of the OPRA Plan.

#### II. Implementation of the Plan Amendment

OPRA represents that the proposed OPRA Plan amendment involves solely technical or ministerial matters and is, therefore, effective upon filing, pursuant to Rule 11Aa3-2(c)(3)(iii) under the Act.<sup>5</sup> At any time within 60 days of the filing of the OPRA Plan amendment, the Commission may summarily abrogate the amendment and require that such amendment be filed in accordance with Rule 11Aa3-2(b)(1) under the Act<sup>6</sup> and reviewed in accordance with Rule 11Aa3-2(c)(2) under the Act<sup>7</sup> if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a national market system; or otherwise in furtherance of the purposes of the Act.

#### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed OPRA Plan amendment that are filed with the Commission, and all written communications relating to the proposed OPRA Plan amendment between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available at the principal offices of

OPRA. All submissions should refer to File No. SR-OPRA-2001-04 and should be submitted by January 2, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45130; File No. SR-Amex-2001-17]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change by the American Stock Exchange LLC Increasing Regular Memberships and Creating Two-Year Permits

December 5, 2001.

#### I. Introduction

On March 19, 2001, the American Stock Exchange LLC ("Exchange" or "Amex") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change increasing the number of regular memberships on the Exchange and creating two-year permits. The Exchange submitted Amendment Nos. 1, 2, and 3 to the proposed rule change on May 3, 2001,<sup>3</sup> May 16, 2001,<sup>4</sup> and May 18, 2001,<sup>5</sup> respectively. The

<sup>8</sup> 17 CFR 200.30-3(a)(29).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Letter from Ivonne Natal, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission dated April 30, 2001 ("Amendment No. 1"). Amendment No. 1 states that on April 30, 2001, a majority of the regular and options principal members, voting as a single class, voted in favor of the proposed rule change.

<sup>4</sup> Letter from Ivonne Natal, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated May 14, 2001 ("Amendment No. 2"). Amendment No. 2 requests the Commission to consider the Plan on a pilot basis for a minimum of two years and a maximum of four years, in the event the Seat Fund Committee exercises its discretion to extend the Plan. Amendment No. 2 also states that there are approximately 300 members trading equities on the Exchange floor.

<sup>5</sup> Letter from Ivonne Natal, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated May 17, 2001 ("Amendment No. 3"). Amendment No. 3 clarifies that the administrative fee that the Amex would receive for administering the Plan would be \$750.00 per sale/lease and that the administrative fee will be collected out of the sale proceeds, prior to their distribution to the members. Amendment No. 3 also states that Amex members and the Board of Governors have approved this fee.

<sup>1</sup> 17 CFR 240.11Aa3-2.

<sup>2</sup> OPRA is a national market system plan approved by the Commission pursuant to section 11A of the Exchange Act, 15 U.S.C. 78k-1, and Rule 11Aa3-2 thereunder, 17 CFR 240.11Aa3-2. See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The five signatories to the OPRA Plan that currently operate an options market are the American Stock Exchange, the Chicago Board Options Exchange, the International Securities Exchange, the Pacific Exchange, and the Philadelphia Stock Exchange. The New York Stock Exchange is a signatory to the OPRA Plan, but sold its options business to the Chicago Board Options Exchange in 1997. See Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

<sup>3</sup> 17 CFR 240.11Aa3-2(c)(3)(iii).

<sup>4</sup> See Securities Exchange Act Release No. 44580 (July 20, 2001), 66 FR 39218 (July 27, 2001) (order approving File No. SR-OPRA-2001-02).

<sup>5</sup> 17 CFR 240.11Aa3-2(c)(3)(iii).

<sup>6</sup> 17 CFR 240.11Aa3-2(b)(1).

<sup>7</sup> 17 CFR 240.11Aa3-2(c)(2).